IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.1201 of 2007
NAZRUL HASNAIN @ ANNU
Versus
THE STATE OF BIHAR & ORS
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3 24-09-2008 Heard.

It appears that on the basis of a petition filed by the petitioner before Subdivisional Magistrate, Gaya a proceeding u/s 144 of the Cr.P.C was initiated. Show cause notice was accordingly issued which was served on opposite party on 23.9.2006. Thereafter both the parties filed their show cause. According to the petitioner from 23.9.2006 to 28.9.2006 the opposite parties made some construction over the disputed plot. The petitioner on 31.10.2006 filed a petition before the Subdivisional Magistrate for taking action u/s 188 of the IPC against opposite parties. On the basis of that petition learned Magistrate called for a report from officer-in-charge, Delha PS, Gaya. The police submitted report that opposite parties have made construction in between 23.9.2006 to 28.9.2006.

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It appears that learned Magistrate examined the police report and also heard the parties and by the impugned order dated 18.7.2007 refused to initiate the proceeding u/s 188 of the IPC against the opposite parties.

The submission of learned counsel is that learned Subdivisional Magistrate has illegally rejected the report submitted by the police.

I have examined the impugned order of the learned Subdivisional Magistrate. It is really surprising that till 31.10.2006 no

step was taken by the petitioner to prosecute the members of opposite parties. The petitioner ought to have informed the learned Magistrate about the illegal construction at least by 28.9.2006. Learned Magistrate by a reasoned order has refused to initiate the proceeding u/s 188 of the IPC against the members of the opposite party.

I find nothing wrong in the impugned order. This application is, accordingly, dismissed.

BKS/ **(M. Saran, J.)**

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